

The Victorian Government Housing Act 1983

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The Co-operative Federation of Victoria Ltd failed in 2004 to effectively engage in policy and public debate about amendments to the Housing Act 1983 which threaten member ownership and control of housing co-operatives. It is also regrettable that housing co-operative members of the Federation were not actively enlisting our support to oppose those amendments. But, the real failure has been our own as a peak body.

Background

In 2004 the Victorian Government amended the Housing Act 1983 to provide a regulatory framework for non-profit rental housing agencies serving the needs of low-income tenants.

The existing group of non-profit rental housing agencies in Victoria includes 11 rental housing co-operatives registered under the Victorian Co-operatives Societies Act 1996:

Carlton Rental Housing Co-operative Ltd
Diamond Valley/Whittlesea Rental Housing Co-operative Ltd
Eastern Suburbs Rental Housing Co-operative Ltd
Essendon Rental Housing Co-operative Ltd
Footscray Rental Housing Co-operative Ltd
Northcote Rental Housing Co-operative Ltd
SouthEast Housing Co-operative Ltd
St Kilda Rental Housing Co-operative Ltd
Sunshine/St Albans Rental Housing Co-operative Ltd
West Turk Housing and Elderly Services Co-operative Ltd
Williamstown Rental Housing Co-operative Ltd

The Housing Act 1983 provides for the registration of housing associations and housing providers:

- Under Schedule 7, 1 (2) housing associations must be a company limited by shares or by guarantee.
- Under Schedule 7, 1 (3) a registered housing provider must be a company limited by shares or by guarantee or a co-operative or an incorporated association.

Part V111 - The Registrar and Rental Housing Agencies Division 2 provides for a Registrar of Housing Agencies.

Division 8 Powers of Registrar clause 129 (2) of the Housing Act specifies that "This Division applies despite anything to the contrary in the **Co-operatives Act 1996** and the **Associations Incorporation Act 1981**."

Clause 131 (1) provides for the Registrar to recommend appointments to the governing body of a registered agency after consultation with the governing body and after considering any nominations made by the governing body. The Registrar may recommend the appointment of one or more persons whom the Registrar considers to be qualified to the governing body. According to 131 (3) "An appointment made under this section has effect as if it had been made in accordance with the constitution or rules of the registered agency" and (5) "This section applies despite anything to the contrary in the constitution or rules of the registered agency." The Registrar, therefore, can impose any number of directors on a co-operative - even a majority.

These provisions in the Housing Act 1983 are inconsistent with co-operative values and principles and is in contradiction with Australia's membership of the International Labour Organisation (ILO).

The 4th co-operative principle endorsed by the International Co-operative Alliance (ICA) in 1995 affirms as follows: "Cooperatives are autonomous, self-help organizations controlled by their members. If they enter into agreements with other organizations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their cooperative autonomy."

The ILO adopts Conventions and Recommendations. By 2003, the ILO had adopted 185 Conventions and 194 Recommendations. Conventions are binding. Recommendations are non-binding guidelines - to guide national policy and practice.

The ILO Recommendation on the Promotion of Co-operatives Recommendation No 193 was adopted by the ILO in 2002. This included an endorsement of the ICA's co-operative principles.

While non-binding, Australia is obligated to the ILO in respect of the recommendation to submit the text to legislative bodies, to report on resulting action and measures taken or planned to give effect to the provision.

The provisions in the Housing Act 1983 are unacceptable because:

- Government should promote and strengthen co-operatives. This provision weakens housing co-operatives.
- Government should recognise co-operatives are independent and autonomous organisations. This provision denies co-operative independence and autonomy.
- Government should encourage co-operatives to respond to their member needs. This provision assumes that government will determine member needs.

- Government should provide a legal framework consistent with co-operative values and principles. This provision undermines co-operative values and principles.

Conclusion

Victoria's Housing Act 1983 is not acceptable and should be amended consistent with ILO Recommendation No 193.

An article was published on australia.coop on 07 July 2006: Victorian Government Compromises Housing Co-operatives.

It is two years since the Housing Act 1983 was amended to include its anti-co-operative features.

The Victorian Government has yet to finalise guidelines for non-profit groups to become registered housing providers. There is an opportunity, therefore, to attempt to engage the issue although this will be difficult given the passage³ of the legislation and the actual and/or perceived governance failings of rental housing co-operatives.

I would suggest that letters be forwarded to the Minister for Consumer Affairs, the Minister for Housing, the Premier and the appropriate Opposition spokespersons.